IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6941 OF 2005

Kum. Dhananjay Haridas Shinde
and Ors. ...Petitioner
vs.
Shri Haridas Vitthal Shinde
and Ors. ....Respondents

R.V. More for the plaintiffs.

S.S. Shah for the respondents.

CORAM: S.U. KAMDAR, J.

DATE : 25th November, 2005.

P.C. :

1. The present petition is filed challenging the order passed by the appeal court dated 19.9.2005 in Civil Misc. Appeal No. 26 of 2005.

2. The District Judge, Kolhapur has set aside the ijunction granted by the trial court. Learned Counsel for the respondent has challenged the said order on the ground that the order

passed by the appeal court is perverse. However on perusal of the order particularly para-11 and 12 of the said order it is clear that the original defendants no.2 to 4 have obtained the sale deeds and are thus in possession of the property and that the plaintiffs have failed to establish that the said documents were obtained by coercion and misrepresentation. The order of the appeal court has considered all the aspects including the point of law which are cited before me and after considering all the aspects have come to the conclusion that the original defendants nos.2 and 3 are not in possession of the suit land and there is ample evidence on record to hold that the plaintiffs are in possession of the suit land. With the aforesaid finding the said order has been reversed by the appeal court.

3. In the light of the evidence before by the appeal court I do not find it appropriate or error apparent on the face of the record to hold any perversity therein requiring any interference

under Article 227 of the Constitution of India. Petition dismissed. Hearing of the suit expedited before the Trial court.

sd/-

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